

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 519 of 2015

- Rama Agariya S/o Late Bhikham Agariya Aged About 50 Years R/o Village - Saraipara, Khuthanpara, Police Station - Ramanujnagar, District Surajpur (Chhattisgarh).

---- Appellant

Versus

- State Of Chhattisgarh, Through The Station House Officer, Police Station - Ramanujnagar, District Surajpur (Chhattisgarh).

---- Respondent

For Appellant	:	Mr. Rama Kant Pandey, Advocate.
For Respondent/State	:	Mr. Ravi Maheshwari, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

25/06/2021

1. By the impugned judgment dated 29.01.2015 passed in S.T. No. 467/2011 by the learned 1st Additional Sessions Judge, Surajpur, District Surajpur (C.G.), the Appellant has been convicted for the offence punishable under Section 376 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 7 years and to pay fine of Rs. 100/-, with default stipulation.
2. In this case, prosecutrix is a major and married lady and the Appellant is the father-in-law of the prosecutrix. On 17.08.2011, husband of the prosecutrix went towards *basti* for charging of mobile, at that time, the Appellant came in the house of the prosecutrix and caught hold her hands and taken her inside the house, where he committed forcible sexual intercourse with her against her will. At that time, the husband

of the prosecutrix came there and saw the incident. Thereafter, the prosecutrix narrated the incident to her husband. They both have gone to inform about the incident to *Surpanch* of village namely Madhu Singh. Thereafter, they lodged a report in concerned Police Station. On the basis of said report, FIR has been registered against the Appellant. Later on statement of the prosecutrix and other witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, charge-sheet has been filed and the Trial Court has framed the charges. To prove the guilt of the Appellant, the prosecution has examined as many as 5 witnesses. No defense witness has been examined by the Appellant. Statement of the Appellant under Section 313 of the Cr.P.C. was recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the Trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Ambikapur, Surguja (C.G.) would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released from jail on 08.01.2020.
5. Learned Counsel appearing for the Appellant would submit that without there being any clinching and reliable evidence available on record, the Trial Court has convicted the Appellant. He further submits that there are material contradiction and omissions occurred in the statement of the witnesses and by ignoring these facts, the Trial Court has wrongly convicted the Appellant, therefore, conviction of the Appellant is not sustainable.
6. Per contra, learned Counsel appearing for the State supported the

impugned judgment and submits that the sentence awarded by the Trial Court is just and proper and requires no interference.

7. I have heard Learned Counsel appearing for the parties and perused the record to assess the correctness of the impugned judgment of conviction.
8. In her Court statement, prosecutrix (PW-1) supported the entire case of the prosecution and categorically deposed that on the date of incident, she was in her house at that time, the Appellant came inside the house and committed forcible sexual intercourse with her. Immediately after the incident, her husband came there and she narrated the entire incident to her husband. The above statement of the prosecutrix, has duly corroborated by Shivbar Das (PW-2), Kotwar. Both the above witnesses remain firmed during their cross-examination. However, Shivbaran Agariya (PW-5), husband of the prosecutrix has not supported the case of the prosecution and turned hostile, but the statements of the prosecutrix and Shivbar Das (PW-2) have supported the entire case of the prosecution. There is nothing on record on the basis of which, their statements can be disbelieved.
9. From the evidence available on record and looking to the entire case of prosecution, there is sufficient evidence available on record against the Appellant and the crime has duly proved against him. Thus, the Trial Court has rightly convicted the Appellant.
10. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge